

REMARKS

Claims 1, 4, and 6-24 are pending in the application. Claim 10 has been amended to correctly depend from claim 6 not cancelled claim 5. Reconsideration is respectfully requested in view of the following remarks.

I. Claim Rejections Under 35 U.S.C. 112, Second Paragraph;

The Examiner rejected claims 1, 4, 6-11 and 19-24 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner states that:

Claim 1, lines 1, 4, 9 "pet death" is not clear as to its meaning.

Claims 1, line 12 "regarding or order pet death" is not clear as to its meaning.

Claim 19, line 17 "regarding or ordering pet-related services" is not clear to its meaning.

Claim 21, "the Internet" lacks antecedent basis.

Claim 21, line 2 "the passing" lacks antecedent basis and is not clear as to its meaning.

The Examiner bears the burden to present a prima facie case of indefiniteness for a rejection under 35 U.S.C. 112, second paragraph (see MPEP, 2173). The Examiner's focus during the examination of claims is whether the claim meets the threshold requirements of clarity and precision. (MPEP 2173.02). The Examiner has not presented a prima facie case for indefiniteness for each rejections under 35 U.S.C. 112, second paragraph. The Examiner provides no basis for the Applicant to know whether any analysis was done or the results of any analysis of the allegedly indefinite claim language in view of (A) the content of the patent application disclosure; (B) the teachings of the prior art; and (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made (MPEP 2173.02).

Applicant suggests that the Examiner is reading incorrectly parsing portions of the claims and leading to confusion.

The allegedly indefinite term "pet death" in claim 1 line 1 is considered as modifying "transactions" and is set off in the alternative with "pet related" which also modifies transactions. The specification is replete with examples of at least the passing of pets, death of pets, mourning the death of a pet and mourning the death of VIP pets, and the descriptions in paragraphs [0016-0017], [0019], [0040-0106]. (All cites are to the published version of the application US Patent Application Publication US 2002/0178079). For at least these reasons, the term "pet death" has definite meaning in the context of the patent application disclosure.

The allegedly indefinite phrase “regarding or order pet death” in claim 1, at line 12 is not considering in the full context of the claim. In context, it is clear that the claimed remote users may do two things, namely, first, obtain information regarding or, second, order. What is the information regarding or what is ordered is provided in the next portion of the claim. Again, set out in the alternative, the remote users may obtain information regarding or order two things. The two things available to the remote users are both services – pet death services or pet related services. For the reasons stated in the paragraph above, the specification provides numerous examples of pet death and pet related services thereby making clear the meaning of these terms in the context of the specification. The same reasoning applies to the allegedly indefinite phrase “regarding or ordering pet-related services” in claim 19, line 17.

The Examiner provides no reasoning why the use of the generally understood term “internet” in claim 21 would lead to the claim being confusing or imprecise. Moreover, one of ordinary skill in the art would be interpret the term “Internet” in the claim 21 readily according to its plain meaning. In addition, the term “internet” is used extensively in the specification and its use in the claim does not does not cause confusion with any other element in the claim. For at least these reasons, the rejection of claim 21 for lacking antecedent basis should be withdrawn.

The allegedly indefinite phrase “the passing” in claim 21, line 2 is only so by incorrect parsing of the claim element by the Examiner. Viewing the term in context reveals that the complete phrase is “to commemorate the passing of a pet.” As set forth above, the various aspects of mourning and commemorating the death or passing of a pet are described at length in the specification.

For at least the reasons set forth above, the Examiner has not made out a prima facie case of indefiniteness. Even if such a case had been presented, the allegedly indefinite terms are in fact definite for at least the reasons set forth above. In view of the forgoing, it is requested that the rejections under 35 USC 112, second paragraph be withdrawn.

II. Claim Rejections Under 35 U.S.C. 103:

The Examiner rejected claims 1, 4, 6-11 and 19-24, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al., US 6,105,008 (“Davis”) in view of Johansen Jr., US 6,785,938 (“Johansen”). Applicant disagrees.

The Examiner bears the burden of providing a prima facie case of obviousness of a claim in view of the cited references. Included within the prima facie case is the identification of some

reason, suggestion or motivation from the prior art as a whole for a person of ordinary skill in the art to have modified or combined the references. When the incentive to combine the teachings of the references is not readily apparent as is here, it is the duty of the Examiner to explain why the combination is proper.

The motivation to combine references in an obviousness rejection must come from the references themselves. No such motivation exists here. Instead, the Examiner is using the pending claims to identify some reason to combine. Davis relates to an online electronic bill paying architecture and system. Johansen describes a customizable pet urn manufacturing process. It is plainly evident that Davis's online bill payment system has no relation to an automated urn design and manufacturing process. Similarly, Johansen's description an automated urn design and manufacturing process is not furthered or advantaged by Davis's online bill payment system.

Because the Examiner has not provided a prima facie showing of how independent claims 1, 19 and 21 are obvious in view Davis and Johansen, Applicant requests that the rejection be withdrawn. Because independent claims 1, 19 and 21 are not rendered obvious and are allowable, the dependent claims 4, 6, 7, 8 9 10, 11, 20, 22, 23, and 24 are also allowable.

CONCLUSION

In light of the remarks set forth above, Applicant believes that all the claims are in condition for allowance. Applicant respectfully requests that this patent application to promptly be passed to issuance. The Examiner is encouraged to telephone the undersigned with any question related to this application.

Respectfully submitted,

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